

Know Your Rights: Interacting with the FBI

November 13, 2025



The ACLU of Hawai'i

I. What is it?

- Non-profit
- Non-partisan
- Civil rights / civil liberties watchdog

II. What does it do?

- Litigation
- Policy advocacy & lobbying
- Organizing
- Public education & press



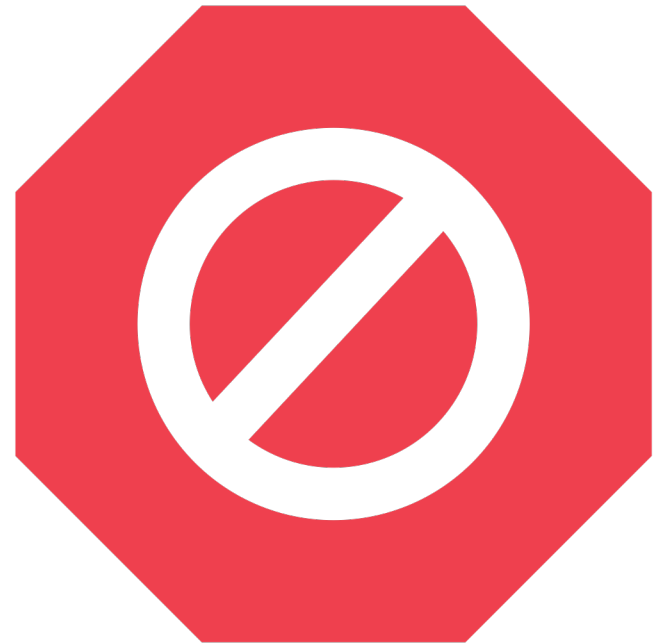
Today's Agenda

Know Your Rights

1. **The Big Picture:** What constitutional rights do you have when interacting with the FBI? (Emily)
2. **How do FBI investigations work?** Practical considerations for people contacted by the FBI (Melinda)
3. **Q&A** – feel free to put questions in Q&A throughout, we'll answer at the end! (Please don't put questions in the chat)

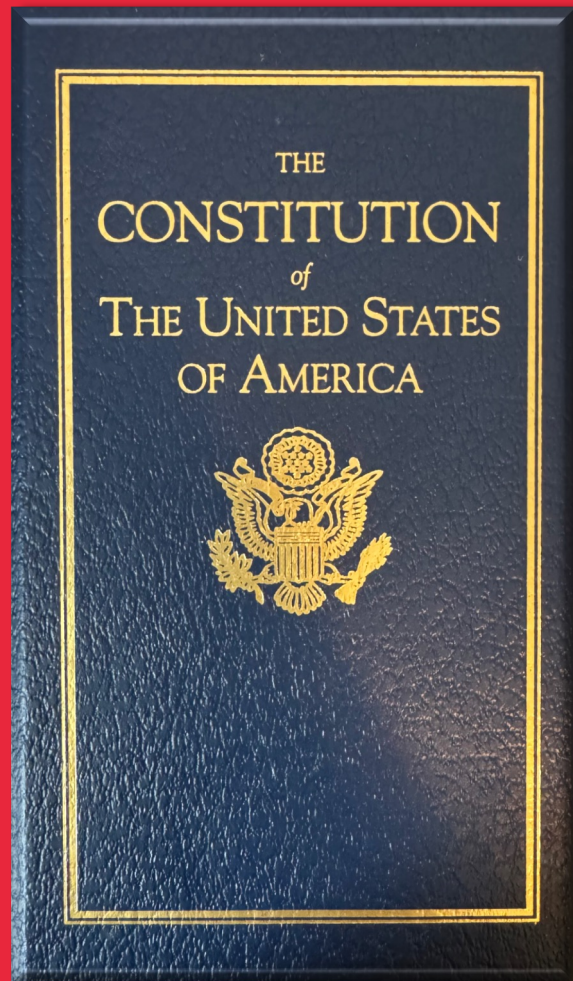
Disclaimer

- I. This presentation is for information purposes, **this is not legal advice**
- II. Always consult with a lawyer if you are arrested or fear you could be arrested
- III. In this administration, policies and practices are changing quickly



Let's talk about risk...





We all have rights.

- **Apply inside the U.S.** (not to people in other countries and caveats around interactions at the border)
- **Apply to everyone**, regardless of immigration status

We all have the right to . . .

Be silent.

- **YOU DO NOT HAVE TO ANSWER QUESTIONS ABOUT ANYTHING:**
 - Name, place of birth, religion
 - Immigration status (will need to disclose at border; LPRs have to disclose)
 - Criminal History
- Does not give you the right to lie or provide false documents
- Will still need to provide name/address and driver's license during traffic stop by police

We all have the right to . . .

A lawyer.

- “Right to Counsel” or “Right to an attorney”
- Applies during any interaction with law enforcement
 - If you are being questioned after an arrest and you say, “I want a lawyer” – LE must stop questioning you.
 - MUST “clearly and unambiguously” invoke this right
- This right can be waived (given up) – if you say you want a lawyer, you must not say anything else

We all have the right to . . .

Be free from unreasonable searches.

- No searching your person without a warrant*, consent, or arrest
- No searching your car or belongings without a warrant*, consent, or arrest
- No entering your home or private spaces without a warrant* or consent
- **YOU DO NOT HAVE TO CONSENT TO A SEARCH**

* There are exceptions for emergencies/safety considerations

A note on offices and non-public spaces



- The 4th Am. right against unreasonable searches gets extra “teeth” in private spaces
- Warrant requirement applies to all non-public spaces
- Q: Are you in a place where you have a “reasonable expectation of privacy”?

Look carefully at any document an agent shows you. . .

Is it actually a judicial warrant?

Judicial Warrant

- Issued by a Court
- Signed by a Judge (not an Immigration Judge)
- States the address or names the person
- Lists a time frame

Immigration Warrant

- Issued by DHS – look for DHS seal, label, or form number
- Signed by immigration officer/immig. Judge
- Authority to issue from immigration law, not court

JUDICIAL WARRANTS v. IMMIGRATION WARRANTS

Is this the right address?

AO 93 (Rev. 12/09) Search and Seizure Warrant

UNITED STATES DISTRICT COURT

for the
Eastern District of California

In the Matter of the Search of
(Briefly describe the property to be searched
or identify the person by name and address)

Davis, California 95616

Case No.

SEARCH AND SEIZURE WARRANT

To: Any authorized law enforcement officer

211-SW-0161 EFB

An application by a federal law enforcement officer or an attorney for the government requests the search of the following person or property located in the EASTERN District of CALIFORNIA.

(Identify the person or describe the property to be searched and give the location):
SEE ATTACHMENT A, ATTACHED HERETO AND INCORPORATED BY REFERENCE

The person or property to be searched, described above, is believed to conceal (Identify the person or describe the property to be seized):
SEE ATTACHMENT B, ATTACHED HERETO AND INCORPORATED BY REFERENCE

I find that the affidavit(s), or any recorded testimony, establish probable cause to search and seize the person or property.

YOU ARE COMMANDED to execute this warrant on or before 5-9-2011
(not to exceed 14 days)

☐ in the daytime 6:00 a.m. to 10 p.m. ☐ at any time in the day or night as I find reasonable cause has been established.

Unless delayed notice is authorized below, you must give a copy of the warrant and a receipt for the property taken to the person from whom, or from whose premises, the property was taken, or leave the copy and receipt at the place where the property was taken.

The officer executing this warrant, or an officer present during the execution of the warrant, must prepare an inventory as required by law and promptly return this warrant and inventory to United States Magistrate Judge

(Name)
☐ I find that immediate notification may have an adverse result listed in 18 U.S.C. § 2705 (except for delay of trial), and authorize the officer executing this warrant to delay notice to the person who, or whose property, will be searched or seized (check the appropriate box) ☐ for _____ days (not to exceed 30).
☐ Until, the facts justifying, the later specific date of _____

Date and time issued: 4-25-2011
9:10:00 AM

City and state: SACRAMENTO, CALIFORNIA

Edmund F. Brennan
EDMUND F. BRENNAN, U.S. MAGISTRATE JUDGE

Is it actually signed by a judge?

IF THE ANSWER TO ALL OF THESE IS YES, THEN IT IS LIKELY A VALID JUDICIAL WARRANT

Note: only the person, property, & areas specified may be searched



NATIONAL
IMMIGRATION
LAW CENTER

DEPARTMENT OF HOMELAND SECURITY U.S. Immigration and Customs Enforcement WARRANT OF REMOVAL/DEPORTATION

File No: _____

Date: _____

To any immigration officer of the United States Department of Homeland Security:

(Full name of alien)

who entered the United States at _____ on _____
(Place of entry) (Date of entry)

is subject to removal/deportation from the United States based upon a final order by:

- ☐ an immigration judge in exclusion, deportation, or removal proceedings
- ☐ a designated official
- ☐ the Board of Immigration Appeals
- ☐ a United States District or Magistrate Court Judge

and pursuant to the following provisions of the Immigration and Nationality Act

I, the undersigned officer of the United States, by virtue of the power and authority vested in the Secretary of Homeland Security under the laws of the United States and by his or her direction, command you to take into custody and remove from the United States the above-named alien, pursuant to law, at the expense of:

THESE ARE VISUAL CUES THAT THIS IS AN IMMIGRATION WARRANT

(Signature of immigration officer)

(Title of immigration officer)

We all have the right to . . .

Be free from unreasonable seizures.

- “Seizure” = Stop or Arrest
- **Stop (or Stop-and-frisk)** = Brief, limited for investigation → requires reasonable suspicion
- **Reasonable suspicion** = “specific, articulable facts that suggest criminal activity is afoot”
- Can frisk (pat-down search) during an investigatory stop



Racial Profiling in ICE Arrests

- Supreme Court suspended judge's order that barred **“roving patrols”**
 - Targeted people based on looks, language, work
- **“Green light”** to stop anyone they guess to be here without authorization—even if a central reason for the stop was race
- **Good news**: still ongoing
 - Analysis reliant on location of Los Angeles



We all have the right to . . .

Be free from unreasonable seizures.

- **Arrest** = “Not free to leave” → requires probable cause
- **Probable Cause** = specific facts that would lead a reasonable person to believe a crime was/will be committed
- Use stops to try to get enough information for an arrest



If the FBI shows up at your home. . .

- You do not *have* to open your door
- Through the door, ask their identity, purpose, if they have a warrant
- Have them slide any warrant under the door – make sure it's a valid judicial warrant



If the FBI comes to your home. . .

Document the interaction.

- Take a photo of any document FBI agents show you
- Ask someone to openly record the interaction (coming up)
- If FBI agents enter your home, CLEARLY say you do not consent to their entry (but otherwise remain calm)
- Do not resist. Do not shout. Keep yourself and your family safe.
- After the FBI agents leave, take photos of any damage. Write down exactly what happened right away.

If you are STOPPED by the FBI. . .

- At any location – your home, on the street, at school, place of worship, etc.
- **Ask if you are free to leave**
- **You can invoke your right to remain silent**
- **You can tell them you will not answer questions without a lawyer present**
- **Do not have to consent to search**
 - Can be frisked



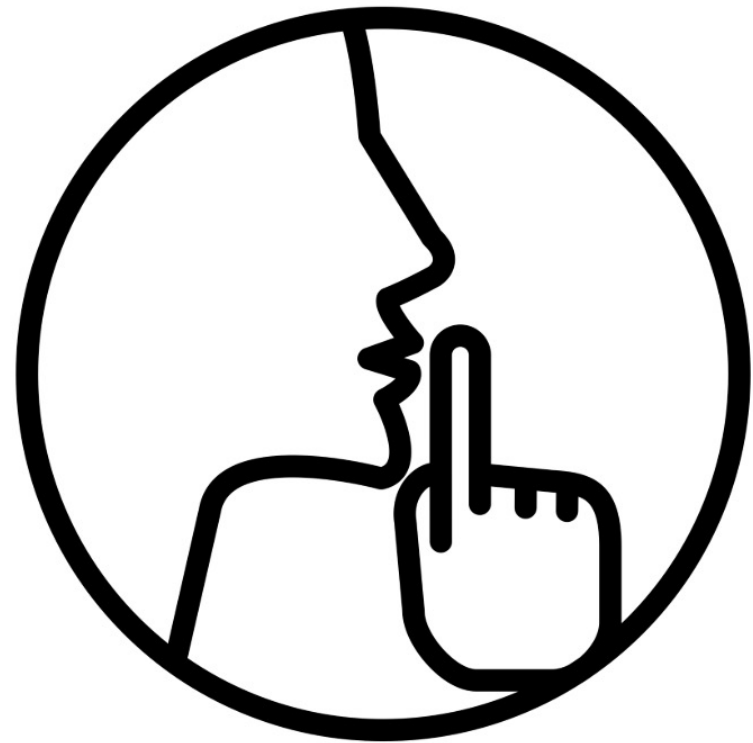
If you are ARRESTED by the FBI. . .

- At any location – your home, on the street, at school, place of worship, etc.
- **Ask if you are free to leave** (worth asking)
- **You can invoke your right to remain silent**
- **You can invoke your right to counsel**
- Likely searched “incident to arrest” – **You do not have to consent to any further search**



If you invoke your constitutional rights. . .

- The FBI CANNOT:
 - Arrest you without probable cause in retaliation
 - Charge you with a crime in retaliation
 - Use your silence or refusal to consent against you in a future criminal proceeding (e.g., a criminal trial)

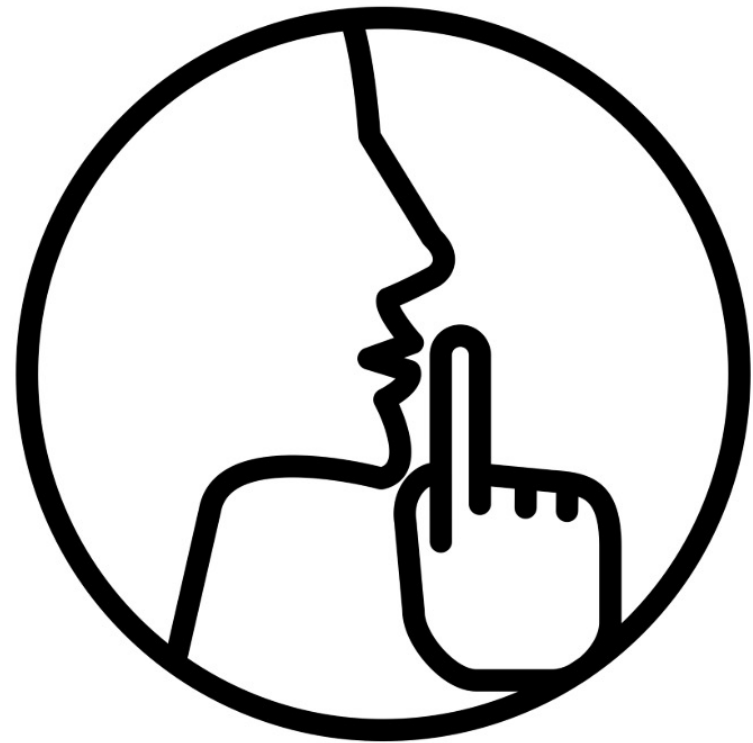


Recall: All LE interactions involve risk



If you invoke your constitutional rights. . .

- **BUT THE FBI CAN:**
 - Arrest you *with* probable cause (even if it's because you refused to answer questions or refused to consent to a search)
 - Charge you with a crime *if* they have probable cause (same)
 - Decide to continue (or open) an investigation against you



The Prisoner's Dilemma

B A		B stays silent	B testifies
		A stays silent R, -1 R, -1	S, -3 T, 0
		A testifies	T, 0 S, -3 P, -2 P, -2



The right to record

Why does recording matter?

- It promotes accountability and oversight
- It can deter misconduct
- It serves as evidence that can be used in legal proceedings
- It supports broader movements for justice



Officials said the public will be asked to step back if they are encroaching on the perimeter and a second warning may be necessary, but arrests could follow.

But the right to record is not absolute

- You must be in a “public space”, or somewhere you are authorized to be
 - No trespassing
 - No entering a restricted area of a government building
 - You can’t materially interfere with law enforcement operations
- The right is “subject to reasonable restrictions as to time, place, and manner” of the recording
 - E.g., can’t be so close it interferes

Practical Tips

- Stay at a safe **distance**
- **Do not hide** that you are recording
- **Do not physically interfere** with police
- **Remain calm:** clarify your purpose if needed
 - “I’m not interfering. I’m just exercising my First Amendment right to record from a safe distance.”
- **Comply** with law enforcement orders
 - Even if you think they are wrong, don’t risk getting arrested for obstruction



During Recording

- **Don't narrate** (let video speak for itself)
- **Do not share info** about targeted individuals
 - E.g., name, immigration status, criminal history
- Focus on **law enforcement conduct**
- **Capture** relevant context
- Use a **passcode** lock on phone



After Recording

- **Preserve** the original of the video (edit on a copy)
- **Be strategic** about whether and when to post on social media



We all have the right to . . .

Freedom of Speech.

- Government cannot tell you what to say or *what not* to say
- Government cannot punish you for *what* you say* (retaliation)
 - Includes political ideas
 - *Especially* includes criticism
- Government can regulate *when* and *where* you can say things (e.g., protest permits) – called “time/place/manner” restrictions

* Some exceptions

What can you do?

- [Join the ACLU of Hawai'i](#)



- Donate time, money, resources, expertise...

Join us for this free event!

ACLU
Hawai'i

PEOPLE'S FAIR:
60 YEARS OF CHAMPIONING
CIVIL LIBERTIES IN HAWAII



Live Performances | Local Art, Crafts, and Food | Activities for Keiki

**SUNDAY, 16
NOVEMBER**
11 AM - 5 PM

CAPITOL MODERN
250 SOUTH HOTEL ST
HONOLULU, HI 96813

RSVP here



bit.ly/aclufair

ACLU

Hawai'i

WE THE PEOPLE